LEGISLATIVE SERVICES AGENCY

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FISCAL IMPACT STATEMENT

LS 7165
BILL NUMBER: SB 374

NOTE PREPARED: Apr 9, 2009
BILL AMENDED: Apr 9, 2009

SUBJECT: Various Transportation Matters.

FIRST AUTHOR: Sen. Waltz
FIRST SPONSOR: Rep. Borders

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill:

(1) allows the Indiana Department of Transportation (INDOT) and other state agencies to enter into leases of highway rights-of-way and other state property under which the lessee is responsible for the growth, maintenance, and harvesting of grasses or other plants that are suitable for: (A) processing into fuels or other energy products; or (B) feed for livestock;
(2) provides that, before entering into a lease, an agency must consult with the Invasive Species Council in order to obtain recommendations concerning the appropriateness of the vegetation proposed to be planted;
(3) provides that a lease with an agency other than INDOT must prohibit the lessee from planting vegetation to replace existing native forest communities;
(4) permits counties to establish a regional transportation district to plan, design, acquire, construct, enlarge, improve, renovate, maintain, equip, finance, operate, and support public transportation systems;
(5) permits the creation of allocation areas, the establishment of a special allocation of county adjusted gross income taxes or county option income taxes, and the imposition of a county economic development income tax, or a special benefits property tax to provide funding to regional transportation districts;
(6) permits other public transportation agencies to merge into a regional transportation district.
The bill also authorizes the Governor to appoint a deputy commissioner for the INDOT to assist the commissioner with the public transportation responsibilities of the department;
(7) makes appropriations to certain mass transportation projects or agencies;
(8) provides for a distribution of money from federal funds and the next Generation Trust Fund to counties, cities, and towns for engineering, land acquisition, construction, resurfacing, restoration, and rehabilitation of highway facilities;
(9) modifies the terms of the next Generation Trust Fund to permit a distribution from the fund;
(10) requires that a part of State Road 331 be operated as a limited access facility;

(11) provides that a permit is not required for an outdoor advertising sign along an interstate or highway if: (A) the sign provides certain information with respect to business activities at a commonly owned nonadjacent property within five miles of the sign; and (B) the property on which the sign is located is used in conjunction with the nonadjacent property. (Current law requires a permit unless the sign is located on the same property where the business activities are conducted.);
(12) allows the Shoreline Development Commission to establish green sustainability districts, each of which must contain at least 250 contiguous acres;
(13) requires the commission to: (A) develop a report concerning the districts; and (B) submit the report before November 1, 2009, to the Governor and the Legislative Council;
(14) repeals the requirement that a public transportation corporation hold a public hearing concerning proposed expanded service and the information related to the hearing; and
(15) repeals the provision concerning the treatment of bids to provide the expanded service by an authorized motor carrier.

Effective Date: (Amended) Upon passage; July 1, 2008 (retroactive); January 1, 2009 (retroactive); July 1, 2009.

Explanation of State Expenditures: *Harvesting Grasses Along Highways:* The specific impact will depend upon the complexity of the leases and the number of leases involved.

(Revised) *Appropriations:* Beginning in July 1, 2008, and ending June 30, 2010, the bill makes the following appropriations from the state General Fund:

Grant Recipient	Purpose	Amount
Northern Indiana Commuter Transportation District	Relocate rail lines to west side of South Bend airport	$15 M
Northern Indiana Commuter Transportation District	Conduct preliminary engineering and environmental studies and activities for Phase 1 of the West Lake line	$15 M
Northern Indiana Commuter Transportation District	Railroad track safety and efficiency improvements in Michigan City	$ 5 M
Central Indiana Regional Transportation District	Advance the proposed rail transit for the northeast corridor of central Indiana	$15 M
Indianapolis Public Transportation Corporation	Purposes authorized under IC 36-9-4	$ 3 M

(Revised) *Deputy Commissioner:* Costs for salary and benefits may increase if the Governor appoints a deputy commissioner in INDOT. There are eight deputy commissioners in the INDOT executive office with an average annual salary of $101,900. Assuming fringe benefits and indirect costs of about $28,770, the total cost for the additional deputy commissioner is about $130,670. The increase in cost will depend on whether a new employee is appointed or an existing employee is reassigned.

(Revised) *State Road 331:* INDOT reports that the State Road 331 project is an active project. The bill allows for eight intersections along the corridor. The bill also prohibits IDOT or any political subdivision to authorize any additional curb cuts or intersections after January 1, 2009, on the designated highway.

(Revised) <u>Background - </u>

INDOT Deputy Commissioner: The deputy commissioner will work with regional transportation districts to develop comprehensive long-range plans, work with public transportation agencies, and develop and maintain effective communication between public transportation agencies and INDOT.

State Road 331: INDOT notes that there is an existing intersection, with the Toll Road entrance/exit, that is within the limits of the project which is not listed in the bill, along with some other limited access openings. INDOT also has an existing contract with private parties to allow access across from the Toll Road access. However, it is not clear if these will be impacted by the provisions of the bill.

<u>Explanation of State Revenues:</u> *Harvesting Grasses Along Highways:* The agencies must decide on the value of the land to be leased. Revenues accruing to the agencies will depend upon the determined value of the land for the specified purposes. Leases are to be awarded to the highest bid for a particular lease. However, the terms of the contract may be affected by the recommendations of the Invasive Species Council which commends on the appropriateness of the proposed vegetative planting.

The lessee is responsible for planning, maintaining, and harvesting the vegetation at the lessee's cost. Leases are to be for a maximum of than four years.

<u>Explanation of Local Expenditures:</u> (Revised) *Green Sustainability District:* The bill may increase costs for the Shoreline Development Commission to prepare a report concerning a green sustainability district and submit the report to the Legislative Council and the Governor by November 1, 2009. Expenses for the Commission are paid from the Shoreline Environmental Trust Fund, which consists of appropriations made by the General Assembly, grants and gifts, and interest, gains, or other earnings.

(Revised) *Regional Transportation Districts (RTD):* The bill will have indeterminate fiscal impact depending on the actions of counties in establishing RTDs, the method by which the county elects to fund its participation in the RTD, and the projects, contracts, mergers or leases undertaken by the RTD.

(Revised) *Local Project Funding:* The bill appropriates more than $700 M from designated federal funds, the American Recovery and Reinvestment Act (ARRA) of 2009, and the state Next Generation Trust Fund (NGTF) to the Budget Agency for distribution among counties, and cities and towns for expenditure by July 1, 2011. The distribution to counties, cities, and towns is made using the Motor Vehicle Highway Account formula. From the federal Highway Bridge Program, the Equity Bonus Program, and the Surface Transportation Program, $250 M is appropriated. Another $200 M is from Indiana's apportionment under the ARRA for engineering, land acquisition, construction, resurfacing, restoration, or rehabilitation of highway facilities. The appropriation also includes 18.2% of Indiana's apportionment from ARRA for public safety or other governmental services. Additionally, $250 M is appropriated from the NGTF. The funds appropriated to the Budget Agency do not revert to the state General Fund or to another fund, but may be used by the Budget Agency until July 1, 2011.

[Indiana was apportioned $578.9 M in FFY 2008 and $593.8 M in FFY 2009 from the three named federal programs.]

(Revised) *Outdoor Advertising Sign:* An analysis by the Federal Highway Administration indicates that failure to maintain effective control over outdoor advertising along certain federal-aid highway systems under the Highway Beautification Act could result in a loss of 10% of the state's federal-aid highway funds, which is estimated to be about $47.3 M.

(Revised) Background - The bill provides for the following.

RTDs: An RTD may be established by resolution of the fiscal board of the county. Two or more counties may jointly establish a district by adopting identical resolutions, or RTDs may expand by resolution of the county or counties to be added and a majority of the counties in the RTD. A county must be a member of the district for at least 10 years. An existing public transportation agency operating within an RTD may merge with the RTD, but may not convey any powers to the RTD that are not public transportation powers.

Governing Board: The RTD is a body corporate and politic, separate from the state and other political subdivisions. The power to govern is vested in the regional transportation board that is comprised of one member from the fiscal body of, one member of the county executive of, and one member from each city in each participating county. A board member does not receive compensation, but may be entitled to a per diem from the district for board meetings. The board must meet at least quarterly.

Reporting: The board is to adopt a budget for the RTD and may establish funds and accounts, as necessary. The RTD is to report to the Legislative Council, the Budget Committee, and the Governor concerning the operations and activities of the RTD during the calendar year by April 1 of each year. The RTD is to prepare a comprehensive strategic plan that will meet present and future public transportation needs, and is to submit the plan for review by the Budget Committee by January 1 of year following the establishment of the RTD.

Authority: The RTD is given 25 general powers, including matters of internal organization and operating procedures and the employment of staff. The RTD may provide public transportation services directly or through an operating agreement; issue bonds to acquire real or personal property, for projects, or fund or refund indebtedness; and enter into leases. Bonds must have a 40-year maturity, and the RTD may only sell bonds to the Indiana Bond Bank or the Indiana Finance Authority. Bonds are payable from lease rentals. A lease may not exceed 40 years in term.

Advisory Committees: The board may establish advisory committees.

Next Generation Trust Fund: On February 5, 2009, the balance in the NGTF was approximately $551 M. This would leave a balance in the fund of $301 M after the appropriation to counties, cities, and towns. Under current law, the principal of the NGTF does not diminish, but the NGTF pays its available interest to the Major Moves Construction Fund each five years beginning on March 15, 2011.

Explanation of Local Revenues: (Revised) *RTD Funding:* The bill requires each public transportation agency, participating county, city, or town to transfer the amounts agreed to and approved by their boards and fiscal bodies. The funds for transfer may come from unrestricted sources of revenue. A county within an RTD may impose a county economic development income tax: The additional tax rate is 0.25%, or 0.05% on the adjusted gross income of county taxpayers. The tax is to be placed in a county regional transportation fund by the county treasurer for transfer to the RTD treasurer within 30 days of deposit in the county fund. The amount collected may not be considered by the Department of Local Government Finance in determining the county's maximum permissible property tax.

The county fiscal body of a member county may elect to provide a part of the county's total certified shares from CAGIT or COIT to the RTD. CAGIT and COIT certified shares are currently distributed to the civil taxing units in the county. A distribution to the RTD would reduce the amount distributed to the civil taxing units. In CY 2008, CAGIT certified shares in 56 counties totaled $290 M. COIT certified shares amounted to $497 M in 28 counties.

The RTD board may also establish a TIF-like allocation area. The RTD allocation area could not overlap any existing TIF allocation areas and would expire within 25 years. The base AV in the allocation area would equal the AV on the date that the area is created plus any new residential AV added after the area is created. New personal property AV would also be counted in the base AV amount unless the RTD board resolves to allocate a portion of it. The board could allocate personal property AV attributable to depreciable property with a useful life of greater than eight years.

Property taxes paid on the allocated assessed value would be captured and transferred to the RTD. The total amount of taxes captured from allocated personal property may not exceed 25% (or a lower amount adopted by the board) of the total taxes paid in all personal property in the district. Property taxes imposed for a fire protection district or on rail car company property would not be captured.

In addition to the revenue from the allocation of new AV, the RTD board would be permitted to levy a special tax on all property in the allocation area to pay debt.

(Revised) *Grants to Local Units:* See *Explanation of State Expenditures* for details of local unit appropriations. Grant recipients are required to file financial statements showing the use of the granted funds with the State Budget Agency.

(Revised) *Appropriations - Local:* Counties, and cities and towns would each receive $250 M allocated using the Motor Vehicle Highway Fund formula during FY 2009 - FY 2011. The county, city, or town will account for the funds separately and must only use the funds for the federally designated purpose of the funds. A county, city, or town must obligate 50% of funds before September 1, 2009, and the remaining 50% of the funds before September 1, 2010. Any funds not obligated in conformity with the law lapse and may be used for any purpose for which the funds may be used.

(Revised) *Next Generation Trust Fund:* The bill appropriates $250 M to counties distributed pro rata based on population data from the Local Road and Street Account and $250 M to cities and towns based on population data from the Motor Vehicle Highway Account distribution. The money may be used for construction, reconstruction, or maintenance of streets and alleys. The county, city, or town must appropriate the funds to shovel-ready projects before January 1, 2011. Any money not appropriated is returned to the NGTF by February 1, 2011.

State Agencies Affected: Those agencies who participate in the lease of lands; Governor; INDOT; Department of Local Government Finance; Budget Agency.

Local Agencies Affected: Counties choosing to form RTDs; St. Joseph County Department of Transportation.

Information Sources: State Auditor's Data; email from Robert Tally, Division Administrator, FHWA Indiana Division, April 03, 2009; Chris Kiefer, INDOT; Jim Poturalski, Deputy Commissioner and Chief Engineer, INDOT, 317-234-0410.

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